

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NITRIKA HOLLAND	:	CIVIL ACTION
	:	
v.	:	
	:	
J. DENNIS HASTERT	:	NO. 02-1478

O R D E R

AND NOW, this *14* day of August, 2002, upon consideration of the Motion to Dismiss of Defendant J. Dennis Hastert (Docket No. 8), the plaintiff's opposition thereto (Docket No. 10)¹, and the defendant's reply, IT **IS** HEREBY ORDERED that the motion is GRANTED, because the case presents a non-justiciable political question. IT IS FURTHER ORDERED that, in view **of** the dismissal of the complaint, the plaintiff's motions for a writ of mandamus (Docket Nos. 2 and 3), and the plaintiff's motion to add the Honorable William H. Yohn, Jr., to the list **of** persons **for** whom impeachment proceedings are to be started (Docket No. 6), are DENIED as MOOT.

¹ Because it is the substance of a paper that controls, and not its designation, the Court considers the Plaintiff's "Motion for the Court to Disregard Defendant's Motion to Dismiss the Complaint in Captioned Case" (Docket No. 10) to be the plaintiff's opposition to the defendant's motion to dismiss.

In this suit, the plaintiff has requested a writ of mandamus ordering the Speaker of the House of Representatives, J. Dennis Hastert, to initiate impeachment proceedings against a list of executive and judicial officials. The defendant has moved to dismiss the case for: (1) lack of subject matter jurisdiction; (2) failure to state a claim; (3) improper service; and (4) immunity from suit.

"[W]here there is a textually demonstrable constitutional commitment of [an] issue to a coordinate political department," the Supreme Court has held that the issue is "nonjusticiable" as a political question. Nixon v. United States, 506 U.S. 224, 228 (1993) (internal quotations omitted); Stehney v. Perry, 101 F.3d 925, 931 n.4 (3d Cir. 1996). Where a case is nonjusticiable, it may not be resolved by the courts. See Nixon, 506 U.S. at 226; see generally 15 Moore's Federal Practice § 101.01 (Matthew Bender 3d ed. 2000).

The Constitution clearly states that, "[t]he House of Representatives . . . shall have the sole Power of Impeachment." U.S. Const., Art. I, § 2, cl. 5. The Supreme Court in Nixon noted that the word "sole" is used only twice in the Constitution, and therefore has considerable significance. Id. at 230. Both common sense and secondary sources counsel that "sole" means "functioning . . . independently and without assistance or interference." Id. (quoting Webster's Third New International Dictionary 2168 (1971)).

The Constitution is therefore unambiguous that only the House alone is to have the power of impeachment; the judiciary is meant to have no role. Id.

It would constitute impermissible interference, and contravene the independence **of** the House of Representatives, with respect to its impeachment power, for this Court to compel the Speaker **of** the House to use that power in any certain way. The question presented by this case is therefore a non-justiciable political question.

Having so found, the Court need not address the additional arguments of the defendant in support of its motion to dismiss.

BY THE COURT:


MARY A. McLAUGHLIN, J.

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